



INDIANA DEPARTMENT OF TRANSPORTATION
Aeronautics Section
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FRANK O'BANNON, Governor
J. BRYAN NICOL, Commissioner

Writer's Direct Line

DATE: June 6, 2002
TO: Area Planning Commissions
Antenna Tower Owners
Housing Developers
Airport Managers
FROM: Maria J. Muia, Ph.D.
Manager, INDOT—Aeronautics Section
RE: I.C. 8-21-10, Regulation of Tall Structures

In light of recent amendments to Indiana Code (IC) 8-21-10, *Regulation of Tall Structures* required by Senate Bill Number 243, the Indiana Department of Transportation (INDOT), Aeronautics Section will be required by law to change the **tall structure approval** and **noise sensitive use permitting process**. This letter is to advise your office of how the INDOT—Aeronautics Section will be conducting the tall structure permitting process beginning July 1, 2002.

Tall Structure Permits

Many changes are required to the tall structure permitting process due to the amendments to IC 8-21-10. These changes become effective on July 1, 2002. The permitting process will be as follows:

- File a Federal Aviation Administration Form 7460-1, *Notice of Proposed Construction or Alteration*, with the FAA. This form can be found on: <http://www.state.in.us/dot/modetrans/airports/indiana.html>
- All applicants for a **tall structure permit** must notify (by certified or registered mail with return receipt requested) *any public use airport located within a five (5) nautical mile radius of their proposed structure*. This notification must include the following:
 - name, telephone number, and contact person of the applicant
 - name, telephone number, and contact person of the INDOT, and
 - name, telephone number, and contact person of the plan commission with jurisdiction over the site.
 - the location and legal description of the site,
 - the proposed height of the structure,
 - and the aeronautical study number that the Federal Aviation Administration (FAA) has assigned to the structure.
- An aeronautical study number is assigned by the FAA when they receive an FAA Form 7460-1, *Notice of Proposed Construction or Alteration*. Once the FAA has studied a structure, they will either issue a *Determination of No Hazard* or, conversely, a *Determination of Hazard*.
- If the proposed structure is within a five (5) nautical mile radius of a public-use airport, the applicant for a tall structure permit must also provide written evidence to the INDOT—

Aeronautics Section that the structure being constructed does not violate any obstruction standards outlined in I.C. 8-21-10-7 with regard to an existing public use airport.

- If the FAA issues a *Determination of No Hazard*, the INDOT—Aeronautics Section will not issue a separate tall structure permit. The INDOT—Aeronautics Section will consider the Federal Aviation Administration (FAA) *Determination of No Hazard* a valid permit upon sixty days after issuance. Therefore, when a determination from the FAA is received by this office it will be held on file until sixty days has elapsed from the date that the determination was completed.
- Although the INDOT—Aeronautics Section will not issue separate tall structure permits from the FAA, it retains the **right to deny a permit** if it determines that it presents a hazard to aerial navigation.

Noise Sensitive Permits

Changes are required to the noise sensitive permitting process also due to the amendments to IC 8-21-10. Most of these changes simply codify the policy that INDOT had already been working under. These changes become effective July 1, 2002. The permitting process will be as follows:

- File an INDOT Form 101 with the INDOT—Aeronautics Section. This form can be found on: <http://www.state.in.us/dot/modetrans>.
- A noise sensitive use permit is required for construction of a building or structure used as a residence, school, church, child care facility, medical facility, retirement home, or nursing home when the construction takes place within the noise sensitive area of a public use airport as outlined in I.C. 8-21-10.
- A proponent for a noise sensitive permit must notify (by certified or registered mail with return receipt requested) any public use airport located within a one (1) nautical mile radius of their proposed noise sensitive use structure. This notification must include the following:
 - name, telephone number, and contact person of the applicant,
 - name, telephone number, and contact person of the INDOT,
 - name, telephone number, and contact person of the plan commission with jurisdiction over the site.
 - the location and legal description of the site,
 - the proposed height of the structure, and
 - if the FAA was notified, the aeronautical study number that the FAA has assigned to the structure.
- To be considered valid, all noise sensitive use permits issued by the INDOT—Aeronautics Section must be recorded in the county in which it is located within five business days of receiving the permit from the INDOT—Aeronautics Section.
- If the structure is located in more than one county, the county that contains the majority of the structure is the county in which the permit must be filed.
- The permit will not be considered valid until the INDOT-Aeronautics Section has received a copy of the recorded permit with the recording data from the county recorder of the county in which the structure is located.
- Application for a noise sensitive permit is to be made on INDOT Form 101, available on our web site at <http://www.state.in.us/dot/modetrans/>.

In order to better understand the manner that the amended IC 8-21-10 may affect you, we suggest you go online to view the amendment www.in.gov/legislative/bills/2002/SE/SE0243.1.html and the code amended at www.in.gov/legislative/ic/code/title8/ar21/ch10.html. If you have any questions pertaining to this matter feel free to call **Troy Allen** of this office at (317) 232-1494.